

AMENDED IN SENATE APRIL 2, 1998

**SENATE BILL**

**No. 1482**

**Introduced by Senator Rosenthal**

February 3, 1998

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~~An act to amend Sections 319 and 375 of the Welfare and Institutions Code, relating to juveniles. An act to amend Sections 8613 and 8714 of the Family Code, and to amend Section 366.26 of the Welfare and Institutions Code, relating to adoption.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1482, as amended, Rosenthal. ~~Juveniles:—custody~~  
*Adoption: dependent children.*

*Existing law provides that a petition for adoption of a dependent child of the juvenile court who has been freed for adoption may be filed (1) either in the county where the petitioner resides or the county where the child was freed for adoption and (2) either in the superior court or the juvenile court. Existing law requires the prospective parents and the child to appear at the hearing on the adoption petition, but permits that appearance to be made by counsel if the prospective adoptive parent is outside the state due to military or other governmental, charitable, or religious service.*

*This bill would require that the petition for adoption be filed in, and the hearing held in the juvenile court of, the county of the child's dependency. The bill would also permit the appearance at the hearing by the petitioner, if he or she resides in another county or state, to be made by the*

*petitioner's counsel or other court-approved representative if specified conditions exist.*

~~Existing law authorizes the juvenile court, in considering the disposition of a case of a child who is removed from the physical custody of his or her parents, to determine whether there is a relative who is willing and able to care for the child. Under existing law, a "relative" is defined as an adult who is related to the child or child's half sibling by blood or affinity, as specified, and preference for placement of the minor is given to an adult who is a grandparent, aunt, uncle, or sibling of the child.~~

~~This bill would additionally define a "relative" as an adult related to siblings by blood or affinity, and include an adult related to a sibling among those given preferential treatment regarding placement of the minor.~~

~~Existing law authorizes the juvenile court of a county to transfer a case in its entirety to another county under specified circumstances, at any time after the court has made a finding of the facts upon which it has exercised its jurisdiction, provided the county receiving the case is the county in which the person entitled to legal custody of the minor resides. Further, existing law requires the court of the county receiving the juvenile case to take jurisdiction upon the receipt and filing of the finding of facts and an order transferring the case.~~

~~This bill would additionally provide that whenever reunification services are either not provided, as specified, or have been terminated by order of the juvenile court, the entire case may be transferred to the county in which the minor resides if that county is not the same as the county of legal residence for the child when the petition was filed. Under the bill, the county of transfer then would become the child's new legal residence and the juvenile court of that county would take jurisdiction, as specified.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1     SECTION 1. ~~Section 319 of the Welfare and~~  
2

1     *SECTION 1. Section 8613 of the Family Code is*  
2     *amended to read:*

3     8613. (a) If the prospective adoptive parent is  
4     commissioned or enlisted in the military service, or  
5     auxiliary thereof, of the United States, or of any of its  
6     allies, or is engaged in service on behalf of any  
7     governmental entity of the United States, or in the  
8     American Red Cross, or in any other recognized  
9     charitable or religious organization, so that it is impossible  
10    or impracticable, because of the prospective adoptive  
11    parent's absence from this state, or otherwise, to make an  
12    appearance in person, and the circumstances are  
13    established by satisfactory evidence, the appearance may  
14    be made for the prospective adoptive parent by counsel,  
15    commissioned and empowered in writing for that  
16    purpose. The power of attorney may be incorporated in  
17    the adoption petition.

18    (b) *If a petition has been filed for adoption of a child*  
19    *who is a dependent of the juvenile court, under Section*  
20    *300 of the Welfare and Institutions Code, and who has*  
21    *been freed for adoption by the juvenile court, under*  
22    *Section 366.26 of the Welfare and Institutions Code, and*  
23    *if: (1) the dependent child has been placed with a*  
24    *prospective adoptive parent or parents who reside in*  
25    *another county or state; (2) it is impossible or*  
26    *impracticable for the prospective adoptive parent or*  
27    *parents to appear in person; (3) these circumstances are*  
28    *established by satisfactory evidence; and (4) the child's*  
29    *attorney, if any, consents, the appearance may be made*  
30    *for the prospective adoptive parent or parents by counsel*  
31    *or by another representative approved by the court. The*  
32    *consent of the absent party or parties to the appearance*  
33    *by counsel or other representative shall be evidenced by*  
34    *a written statement executed by the absent party or*  
35    *parties and acknowledged by the attorney.*

36    (c) Where the prospective adoptive parent is  
37    permitted to appear by counsel or other representative  
38    approved by the court, the agreement described in  
39    subdivision (b) of Section 8612 may be executed and  
40    acknowledged by the counsel or representative, or may

1 be executed by the absent party before a notary public,  
2 or any other person authorized to take acknowledgments  
3 including the persons authorized by Sections 1183 and  
4 1183.5 of the Civil Code.

5 ~~(e)~~

6 (d) Where the prospective adoptive parent is  
7 permitted to appear by counsel, or otherwise, the court  
8 may, in its discretion, cause an examination of the  
9 prospective adoptive parent, other interested person, or  
10 witness to be made upon deposition, as it deems  
11 necessary. The deposition shall be taken upon  
12 commission, as prescribed by the Code of Civil  
13 Procedure, and the expense thereof shall be borne by the  
14 petitioner.

15 ~~(d)~~

16 (e) The petition, relinquishment or consent,  
17 agreement, order, report to the court from any  
18 investigating agency, and any power of attorney and  
19 deposition shall be filed in the office of the county clerk.

20 ~~(e)~~

21 (f) The provisions of this section permitting an  
22 appearance through counsel are equally applicable to the  
23 spouse of a prospective adoptive parent who resides with  
24 the prospective adoptive parent outside this state.

25 ~~(f)~~

26 (g) Where, pursuant to this section, neither  
27 prospective adoptive parent need appear before the  
28 court, the child proposed to be adopted need not appear.  
29 If the law otherwise requires that the child execute any  
30 document during the course of the hearing, the child may  
31 do so through counsel.

32 ~~(g)~~

33 (h) Where none of the parties appears, the court may  
34 not make an order of adoption until after a report has  
35 been filed with the court pursuant to Section 8715, 8807,  
36 8914, or 9001.

37 *SEC. 2. Section 8714 of the Family Code is amended*  
38 *to read:*

39 8714. (a) A person desiring to adopt a child may for  
40 that purpose file a petition in the county in which the



1 petitioner resides. ~~Where a~~ *However, the petition for*  
 2 *adoption of a child has been adjudged to be who is a*  
 3 *dependent of the juvenile court pursuant to under*  
 4 *Section 300 of the Welfare and Institutions Code, and who*  
 5 *has thereafter been freed for adoption by the juvenile*  
 6 *court, the petition may be filed either in the county*  
 7 *where the petitioner resides or in under Section 366.26 of*  
 8 *the Welfare and Institutions Code, shall be filed in the*  
 9 *county where the child was freed for adoption of the*  
 10 *child's dependency and the hearing on the petition shall*  
 11 *be held in the juvenile court of that county.*

12 (b) The court clerk shall immediately notify the  
 13 department at Sacramento in writing of the pendency of  
 14 the proceeding and of any subsequent action taken.

15 (c) The caption of the adoption petition shall contain  
 16 the names of the petitioners, but not the child's name.  
 17 The petition shall state the child's sex and date of birth.  
 18 The name the child had before adoption shall appear in  
 19 the joinder signed by the licensed adoption agency.

20 (d) If the child is the subject of a guardianship petition,  
 21 the adoption petition shall so state and shall include the  
 22 caption and docket number or have attached a copy of  
 23 the letters of the guardianship or temporary  
 24 guardianship. The petitioners shall notify the court of any  
 25 petition for guardianship or temporary guardianship filed  
 26 after the adoption petition. The guardianship proceeding  
 27 shall be consolidated with the adoption proceeding.

28 (e) The order of adoption shall contain the child's  
 29 adopted name, but not the name the child had before  
 30 adoption.

31 *SEC. 3. Section 366.26 of the Welfare and Institutions*  
 32 *Code, as amended by Section 26 of Chapter 793 of the*  
 33 *Statutes of 1997, is amended to read:*

34 366.26. (a) This section applies to minors who are  
 35 adjudged dependent children of the juvenile court  
 36 pursuant to subdivision (c) of Section 360 on or after  
 37 January 1, 1989. The procedures specified herein are the  
 38 exclusive procedures for conducting these hearings; Part  
 39 2 (commencing with Section 3020) of Division 8 of the  
 40 Family Code is not applicable to these proceedings.

1 Section 8714.7 of the Family Code is applicable and  
2 available to all dependent children meeting the  
3 requirements of that section. For minors who are  
4 adjudged dependent children of the juvenile court  
5 pursuant to subdivision (c) of Section 360 on or after  
6 January 1, 1989, this section and Sections 8604, 8605, 8606,  
7 and 8700 of the Family Code and Chapter 5 (commencing  
8 with Section 7660) of Part 3 of Division 12 of the Family  
9 Code specify the exclusive procedures for permanently  
10 terminating parental rights with regard to, or establishing  
11 legal guardianship of, the minor while the minor is a  
12 dependent child of the juvenile court.

13 (b) At the hearing, ~~which~~ *that* shall be held in juvenile  
14 court for all minors who are dependents of the juvenile  
15 court, the court, in order to provide stable, permanent  
16 homes for these minors, shall review the report as  
17 specified in Section 361.5, 366.21, or 366.22, shall indicate  
18 that the court has read and considered it, shall receive  
19 other evidence that the parties present, and then shall do  
20 one of the following:

21 (1) Permanently terminate the rights of the parent or  
22 parents and order that the minor be placed for adoption  
23 and, upon the filing of a petition for adoption in the  
24 juvenile court, order that a hearing be set. The court shall  
25 proceed with the adoption after the appellate rights of  
26 the natural parents have been exhausted.

27 (2) Without permanently terminating parental rights,  
28 identify adoption as the permanent placement goal and  
29 order that efforts be made to locate an appropriate  
30 adoptive family for the minor for a period not to exceed  
31 90 days.

32 (3) Without permanently terminating parental rights,  
33 appoint a legal guardian for the minor and issue letters of  
34 guardianship.

35 (4) Order that the minor be placed in long-term foster  
36 care, subject to the regular review of the juvenile court.

37 In choosing among the above alternatives the court  
38 shall proceed pursuant to subdivision (c).

39 (c) At the hearing the court shall proceed pursuant to  
40 one of the following procedures:



1 (1) The court shall terminate parental rights only if it  
2 determines by clear and convincing evidence that it is  
3 likely that the minor will be adopted. If the court so  
4 determines, the findings pursuant to subdivision (b) or  
5 paragraph 1 of subdivision (e) of Section 361.5 that  
6 reunification services shall not be offered, or the findings  
7 pursuant to subdivision (e) of Section 366.21 that the  
8 whereabouts of a parent have been unknown for six  
9 months or that the parent has failed to visit or contact the  
10 child for six months or that the parent has been convicted  
11 of a felony indicating parental unfitness, or, pursuant to  
12 Section 366.21 or 366.22, that a minor cannot or should not  
13 be returned to his or her parent or guardian, shall then  
14 constitute a sufficient basis for termination of parental  
15 rights unless the court finds that termination would be  
16 detrimental to the minor due to one of the following  
17 circumstances:

18 (A) The parents or guardians have maintained regular  
19 visitation and contact with the minor and the minor  
20 would benefit from continuing the relationship.

21 (B) A minor 12 years of age or older objects to  
22 termination of parental rights.

23 (C) The minor is placed in a residential treatment  
24 facility, adoption is unlikely or undesirable, and  
25 continuation of parental rights will not prevent finding  
26 the minor a permanent family placement if the parents  
27 cannot resume custody when residential care is no longer  
28 needed.

29 (D) The minor is living with a relative or foster parent  
30 who is unable or unwilling to adopt the minor because of  
31 exceptional circumstances, ~~which~~ *that* do not include an  
32 unwillingness to accept legal or financial responsibility  
33 for the minor, but who is willing and capable of providing  
34 the minor with a stable and permanent environment and  
35 the removal of the minor from the physical custody of his  
36 or her relative or foster parent would be detrimental to  
37 the emotional well-being of the minor. This subparagraph  
38 does not apply to any minor who is living with a  
39 nonrelative and who is either (i) under six years of age or  
40 (ii) a member of a sibling group where at least one minor

1 is under six years of age and the sibling is, or should be,  
2 permanently placed together.

3 (2) The court shall not terminate parental rights if, at  
4 each and every hearing at which the court was required  
5 to consider reasonable efforts or services, the court has  
6 found that reasonable efforts were not made or that  
7 reasonable services were not offered or provided.

8 (3) If the court finds that termination of parental  
9 rights would not be detrimental to the minor pursuant to  
10 paragraph (1) and that the minor has a probability for  
11 adoption but is difficult to place for adoption and there is  
12 no identified or available prospective adoptive parent,  
13 the court may identify adoption as the permanent  
14 placement goal and, without terminating parental rights,  
15 order that efforts be made to locate an appropriate  
16 adoptive family for the minor for a period not to exceed  
17 90 days. During this 90-day period, the public agency  
18 responsible for seeking adoptive parents; for each minor  
19 shall, to the extent possible, contact other private and  
20 public adoption agencies regarding the availability of the  
21 minor for adoption. During the 90-day period, the public  
22 agency shall conduct the search for adoptive parents in  
23 the same manner as prescribed for children in Sections  
24 8708 and 8709 of the Family Code. At the expiration of this  
25 period, another hearing shall be held and the court shall  
26 proceed pursuant to paragraph (1), (3), or (4) of  
27 subdivision (b). For purposes of this section, a minor may  
28 only be found to be difficult to place for adoption if there  
29 is no identified or available prospective adoptive parent  
30 for the minor because of the minor's membership in a  
31 sibling group, or the presence of a diagnosed medical,  
32 physical, or mental handicap, or the minor is the age of  
33 seven years or more.

34 (4) If the court finds that adoption of the minor or  
35 termination of parental rights is not in the interest of the  
36 minor, because one of the conditions in subparagraph  
37 (A), (B), (C), or (D) of paragraph (1) or in paragraph  
38 (2) applies, the court shall either order that the present  
39 caretakers or other appropriate persons shall become  
40 legal guardians of the minor or order that the minor



1 remain in long-term foster care. Legal guardianship shall  
2 be considered before long-term foster care, if it is in the  
3 best interests of the minor and if a suitable guardian can  
4 be found. When the minor is living with a relative or a  
5 foster parent who is willing and capable of providing a  
6 stable and permanent environment, but not willing to  
7 become a legal guardian, the minor shall not be removed  
8 from the home if the court finds the removal would be  
9 seriously detrimental to the emotional well-being of the  
10 minor because the minor has substantial psychological  
11 ties to the relative caretaker or foster parents. The court  
12 shall also make an order for visitation with the parents or  
13 guardians unless the court finds by a preponderance of  
14 the evidence that the visitation would be detrimental to  
15 the physical or emotional well-being of the minor.

16 (5) If the court finds that the minor should not be  
17 placed for adoption, that legal guardianship shall not be  
18 established, and that there are no suitable foster parents  
19 except exclusive-use homes available to provide the  
20 minor with a stable and permanent environment, the  
21 court may order the care, custody, and control of the  
22 minor transferred from the county welfare department  
23 or probation department to a licensed foster family  
24 agency. The court shall consider the written  
25 recommendation of the county welfare director or chief  
26 probation officer regarding the suitability of ~~such a~~ *that*  
27 transfer. The transfer shall be subject to further court  
28 orders.

29 The licensed foster family agency shall place the minor  
30 in a suitable licensed or exclusive-use home ~~which~~ *that*  
31 has been certified by the agency as meeting licensing  
32 standards. The licensed foster family agency shall be  
33 responsible for supporting the minor and for providing  
34 appropriate services to the minor, including those  
35 services ordered by the court. Responsibility for the  
36 support of the minor shall not, in and of itself, create  
37 liability on the part of the foster family agency to third  
38 persons injured by the minor. Those minors whose care,  
39 custody, and control are transferred to a foster family  
40 agency shall not be eligible for foster care maintenance

1 payments or child welfare services, except for emergency  
2 response services pursuant to Section 16504.

3 (d) The proceeding for the appointment of a guardian  
4 for a minor who is a dependent of the juvenile court shall  
5 be in the juvenile court. If the court finds pursuant to this  
6 section that legal guardianship is the appropriate  
7 permanency plan, it shall appoint the legal guardian and  
8 issue letters of guardianship. The assessment prepared  
9 pursuant to subdivision (g) of Section 361.5, subdivision  
10 (i) of Section 366.21, and subdivision (b) of Section 366.22  
11 shall be read and considered by the court prior to the  
12 appointment, and this shall be reflected in the minutes of  
13 the court. The person preparing the assessment may be  
14 called and examined by any party to the proceeding.

15 (e) The proceeding for the adoption of a minor who is  
16 a dependent of the juvenile court shall be in the juvenile  
17 court if the court finds pursuant to this section that  
18 adoption is the appropriate permanency plan ~~and the~~  
19 ~~petition for adoption is filed in the juvenile court.~~ Upon  
20 the filing of a petition for adoption, the juvenile court  
21 shall order that an adoption hearing be set. The court shall  
22 proceed with the adoption after the appellate rights of  
23 the natural parents have been exhausted. The full report  
24 required by Section 8715 of the Family Code shall be read  
25 and considered by the court prior to the adoption and this  
26 shall be reflected in the minutes of the court. The person  
27 preparing the report may be called and examined by any  
28 party to the proceeding. ~~It is the intent of the Legislature,~~  
29 ~~pursuant to this subdivision, to give potential adoptive~~  
30 ~~parents the option of filing in the juvenile court the~~  
31 ~~petition for the adoption of a minor who is a dependent~~  
32 ~~of the juvenile court. Nothing in this section is intended~~  
33 ~~to prevent the filing of such a petition for adoption in any~~  
34 ~~other court as permitted by law, instead of in the juvenile~~  
35 ~~court.~~

36 (f) At the beginning of any proceeding pursuant to  
37 this section, if the minor or the parents are not being  
38 represented by previously retained or appointed counsel,  
39 the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require this protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor or the minor's counsel so requests or the court so orders.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(g) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(h) At all proceedings under this section, the court shall consider the wishes of the minor and shall act in the best interests of the minor.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

1 (3) The minor is afraid to testify in front of his or her  
2 parent or parents.

3 After testimony in chambers, the parent or parents of  
4 the minor may elect to have the court reporter read back  
5 the testimony or have the testimony summarized by  
6 counsel for the parent or parents.

7 The testimony of a minor also may be taken in  
8 chambers and outside the presence of the guardian or  
9 guardians of a minor under the circumstances specified  
10 in this subdivision.

11 (i) Any order of the court permanently terminating  
12 parental rights under this section shall be conclusive and  
13 binding upon the minor person, upon the parent or  
14 parents and upon all other persons who have been served  
15 with citation by publication or otherwise as provided in  
16 this chapter. After making such an order, the court shall  
17 have no power to set aside, change, or modify it, but  
18 nothing in this section shall be construed to limit the right  
19 to appeal the order.

20 (j) If the court, by order or judgment, declares the  
21 minor free from the custody and control of both parents,  
22 or one parent if the other does not have custody and  
23 control, the court shall at the same time order the minor  
24 referred to the State Department of Social Services or a  
25 licensed adoption agency for adoptive placement by the  
26 agency. However, no petition for adoption may be  
27 granted until the appellate rights of the natural parents  
28 have been exhausted. The State Department of Social  
29 Services or licensed adoption agency shall be responsible  
30 for the custody and supervision of the minor and shall be  
31 entitled to the exclusive care and control of the minor at  
32 all times until a petition for adoption is granted. With the  
33 consent of the agency, the court may appoint a guardian  
34 of the minor, who shall serve until the minor is adopted.

35 (k) Notwithstanding any other provision of law, the  
36 application of any person who, as a relative caretaker or  
37 foster parent, has cared for a dependent child for whom  
38 the court has approved a permanent plan for adoption, or  
39 who has been freed for adoption, shall be given  
40 preference with respect to that minor over all other

1 applications for adoptive placement if the agency making  
2 the placement determines that the minor has substantial  
3 emotional ties to the relative caretaker or foster parent  
4 and removal from the relative caretaker or foster parent  
5 would be seriously detrimental to the minor's emotional  
6 well-being.

7 As used in this subdivision, "preference" means that  
8 the application shall be processed and, if satisfactory, the  
9 family study shall be completed before the processing of  
10 the application of any other person for the adoptive  
11 placement of the minor.

12 (l) (1) An order by the court that a hearing pursuant  
13 to this section be held is not appealable at any time unless  
14 all of the following applies:

15 (A) A petition for extraordinary writ review was filed  
16 in a timely manner.

17 (B) The petition substantively addressed the specific  
18 issues to be challenged and supported that challenge by  
19 an adequate record.

20 (C) The petition for extraordinary writ review was  
21 summarily denied or otherwise not decided on the  
22 merits.

23 (2) Failure to file a petition for extraordinary writ  
24 review within the period specified by rule, to  
25 substantively address the specific issues challenged, or to  
26 support that challenge by an adequate record shall  
27 preclude subsequent review by appeal of the findings and  
28 orders made pursuant to this section.

29 (3) The Judicial Council shall adopt rules of court,  
30 effective January 1, 1995, to ensure all of the following:

31 (A) A trial court, after issuance of an order directing  
32 a hearing pursuant to this section be held, shall advise all  
33 parties of the requirement of filing a petition for  
34 extraordinary writ review as set forth in this subdivision  
35 in order to preserve any right to appeal in these issues.  
36 This notice shall be made orally to a party if they are  
37 present at the time of the making of the order or by  
38 first-class mail by the clerk of the court to the last known  
39 address of a party not present at the time of the making  
40 of the order.

1 (B) The prompt transmittal of the records from the  
2 trial court to the appellate court.

3 (C) That adequate time requirements for counsel and  
4 court personnel exist to implement the objective of this  
5 subdivision.

6 (D) That the parent or guardian, or their trial counsel  
7 or other counsel, is charged with the responsibility of  
8 filing a petition for extraordinary writ relief pursuant to  
9 this subdivision.

10 (4) The intent of this subdivision is to do both of the  
11 following:

12 (A) Make every reasonable attempt to achieve a  
13 substantive and meritorious review by the appellate  
14 court within the time specified in Sections 366.21 and  
15 366.22 for holding a hearing pursuant to this section.

16 (B) Encourage the appellate court to determine all  
17 writ petitions filed pursuant to this subdivision on their  
18 merits.

19 (5) This subdivision shall only apply to cases in which  
20 an order to set a hearing pursuant to this section is issued  
21 on or after January 1, 1995.

22 (m) This section shall be operative January 1, 1999.

23 Institutions Code is amended to read:

24 ~~319. At the initial petition hearing the court shall~~  
25 ~~examine the minor's parents, guardians, or other persons~~  
26 ~~having relevant knowledge and hear the relevant~~  
27 ~~evidence as the minor, the minor's parents or guardians,~~  
28 ~~the petitioner, or their counsel desires to present. The~~  
29 ~~court may examine the minor, as provided in Section 350.~~

30 ~~The probation officer shall report to the court on the~~  
31 ~~reasons why the minor has been removed from the~~  
32 ~~parent's custody; the need, if any, for continued~~  
33 ~~detention; on the available services and the referral~~  
34 ~~methods to those services which could facilitate the~~  
35 ~~return of the minor to the custody of the minor's parents~~  
36 ~~or guardians; and whether there are any relatives who are~~  
37 ~~able and willing to take temporary custody of the minor.~~  
38 ~~The court shall order the release of the minor from~~  
39 ~~custody unless a prima facie showing has been made that~~

~~the minor comes within Section 300 and any of the following circumstances exist:~~

~~(a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.~~

~~(b) There is substantial evidence that a parent, guardian, or custodian of the minor is likely to flee the jurisdiction of the court.~~

~~(c) The minor has left a placement in which he or she was placed by the juvenile court.~~

~~(d) The minor indicates an unwillingness to return home, if the minor has been physically or sexually abused by a person residing in the home.~~

~~The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the minor from his or her home, pursuant to subdivision (b) of Section 306, and whether there are available services which would prevent the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also review whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) of Part 3, Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6, of Division 9 would have eliminated the need to take temporary custody of the minor or would prevent the need for further detention. If the minor can be returned to the custody of his or her~~

~~parent or guardian through the provision of those services, the court shall place the minor with his or her parent or guardian and order that the services shall be provided. If the minor cannot be returned to the custody of his or her parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child. Where the first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, even with reasonable services being provided, the court shall make a finding that the lack of preplacement preventive efforts were reasonable. Whenever a court orders a minor detained, the court shall state the facts on which the decision is based, shall specify why the initial removal was necessary, and shall order services to be provided as soon as possible to reunify the minor and his or her family if appropriate.~~

~~When the minor is not released from custody the court may order that the minor shall be placed in the suitable home of a relative or in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court or in an appropriate certified family home whose license is pending and all the prelicense requirements for such a placement have been met as set forth in subdivision (c) of Section 361.2 for a period not to exceed 15 judicial days.~~

~~As used in this section, “relative” means an adult who is related to the child or child’s half sibling by blood or affinity, or an adult related to siblings by blood or affinity, including all relatives whose status is preceded by the words “step,” “great,” “great great,” or “grand,” or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for placement of the child: an adult, or an adult related to a sibling, who is a grandparent, aunt, uncle, or a sibling of the child.~~

~~The court shall consider the recommendations of the social worker based on the emergency assessment of the relative’s suitability, including the results of a criminal~~



1 ~~records check and prior child abuse allegations, if any,~~  
2 ~~prior to ordering that the child be placed with a relative.~~  
3 ~~The social worker shall initiate the assessment pursuant~~  
4 ~~to Section 361.3 of any relative to be considered for~~  
5 ~~continuing placement.~~

6 ~~SEC. 2. Section 375 of the Welfare and Institutions~~  
7 ~~Code is amended to read:~~

8 ~~375. Whenever a petition is filed in the juvenile court~~  
9 ~~of a county other than the residence of the person named~~  
10 ~~in the petition, or whenever, subsequent to the filing of~~  
11 ~~a petition in the juvenile court of the county where such~~  
12 ~~minor resides, the residence of the person who would be~~  
13 ~~legally entitled to the custody of such minor were it not~~  
14 ~~for the existence of a court order issued pursuant to this~~  
15 ~~chapter is changed to another county, the entire case may~~  
16 ~~be transferred to the juvenile court of the county wherein~~  
17 ~~such person then resides at any time after the court has~~  
18 ~~made a finding of the facts upon which it has exercised its~~  
19 ~~jurisdiction over such minor, and the juvenile court of the~~  
20 ~~county wherein such person then resides shall take~~  
21 ~~jurisdiction of the case upon the receipt and filing with it~~  
22 ~~of such finding of the facts and an order transferring the~~  
23 ~~case.~~

24 ~~In all cases where reunification services are not~~  
25 ~~provided pursuant to subdivision (b) of Section 361.5, or~~  
26 ~~whenever reunification services are terminated by order~~  
27 ~~of the juvenile court, the entire case may be transferred~~  
28 ~~to the juvenile court of the county wherein the child~~  
29 ~~actually resides if other than the county of his or her legal~~  
30 ~~residence at the time the petition was filed, and that~~  
31 ~~county shall then become the county of his or her legal~~  
32 ~~residence and the juvenile court of that county shall take~~  
33 ~~jurisdiction of the case upon the receipt and filing with it~~  
34 ~~of a finding of the facts and an order transferring the case.~~  
35